

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2009SF1478
)	EEOC NO.: 21BA90412
LORENZO BROWN)	ALS NO.: 09-0703
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Munir Muhammad, Rozanne Ronen, and Nabi Fakroddin, upon Lorenzo Brown's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2009SF1478; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On November 10, 2008, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged that L.S. Building Products, Millwork Division ("Employer") subjected him to harassment because of his race, Black, in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act"). On November 5, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On November 30, 2009, the Petitioner filed a timely Request.
2. The Employer manufactures home specialty products for home construction and remodeling. The Employer hired the Petitioner on September 18, 2006 as a door jamb specialist.
3. On August 13, 2008, the Petitioner's car was parked in the Employer's parking lot. The Petitioner discovered that someone had placed beer bottles under his car tires. If the Petitioner had driven over the bottles, his tires would have been slashed. The Petitioner reported this incident to a Supervisor. The Supervisor reported this incident to the President of the Employer. The President determined that other employees also had had bottles placed under

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

their tires and had flat tires, but the person or persons responsible for this conduct was never discovered.

4. On August 18, 2008, while at work, the Petitioner discovered an anonymous letter on his desk which contained references to the Klu Klux Klan and racially offensive language. The Petitioner reported this incident to a Supervisor and gave the Supervisor a copy of the letter.
5. The Supervisor reported the August 18th incident to the President. The President instructed the Supervisor to obtain all information regarding the circumstances of the August 18th incident. The President commenced an investigation into the August 18th incident. The President spoke to the Petitioner's co-workers about the letter, but could not determine who was responsible for leaving the letter on the Petitioner's desk. Also, the letter had been handled by so many people that it was not possible for the police to obtain a "clean" set of prints from the letter.
6. The Petitioner expressed that he was fearful about what his co-workers might do, and the President told the Petitioner the Employer would try to make things as safe as possible for him and all employees, and that someone would check on the Petitioner periodically in his work area. The President also told the Petitioner that if he received another letter, not to touch it so that the police could obtain fingerprints from it.
7. On August 20, 2008, the Petitioner was involved in a verbal conflict with a co-worker (race, White). The Petitioner believed he heard this co-worker threaten to shoot him, and the Petitioner reported this incident to the Supervisor, and staff members in the Employer's human resources department. The Petitioner also told the President about this incident.
8. On August 22, 2008, the President and the Supervisor told the Petitioner that this co-worker would receive a disciplinary write-up for his conduct and that the co-worker had admitted to being "disorderly." The Petitioner recanted his statement about hearing the co-worker threaten to shoot him.
9. In his charge, the Petitioner alleged that the Employer harassed him on August 18, 2008, citing to the anonymous racially offensive letter; that the Employer had created a hostile work environment due to the Petitioner's race; that he has been harassed continually, and that the Employer has ignored the Petitioner's concerns about his safety.
10. In his Request, the Petitioner states that two co-workers had used racial slurs against him in 2006, and reiterates that he believes the Employer has ignored his concerns about his safety.
11. In its Response, the Respondent asks the Commission to sustain its dismissal of the Petitioner's charge for lack of substantial evidence. The Respondent says that the August 18th

incident was not trivial in nature, however the Employer took swift action to investigate the August 18th incident, and no racially motivated incidents had occurred subsequently.

CONCLUSION

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747 (March 7, 1995), 1995 WL 793258 (Ill.Hum.Rts.Com.).

Actionable harassment occurs when the workplace is permeated with discriminatory, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment. Harris v. Forklift Systems, Inc., 510 U.S. 20, 114 S.Ct. 367, 371, 126 L.Ed.2d 295. There is no question that the anonymous letter that was left on the Petitioner's desk on August 18, 2008, was highly offensive and racially motivated. However, the Employer immediately conducted an investigation into the incident, and attempted to address the Petitioner's concerns about his safety. There is no substantial evidence that the Employer ignored the Petitioner's concerns about racial harassment, nor permitted racial harassment to occur in the workplace. Rather, once the Petitioner made the Employer aware of various incidents, the Employer took steps to investigate and remedy the matter.

While a variety of unfortunate incidents occurred in the summer 2008, there is no substantial evidence that these were all racially motivated, and thus part of a pattern of racial harassment. Even taking into consideration the Petitioner's contention in his Request that in 2006 two co-workers had used racial slurs against him, three sporadic racially motivated incidents over a two-year period is not conduct sufficiently severe or pervasive to rise to the level of actionable racial harassment. Infrequent slurs are not sufficient to create actionable harassment under the Act. See Hill and Peabody Coal Co., ___ Ill HRC Rep. ___ (1991SF0123, June 26, 1996).

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of his charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

Page 4 of 4

In the Matter of the Request for Review by: Lorenzo Brown

L.S. Building Products, Millwork Division as Respondents with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 9th day of June 2010.

Commissioner Munir Muhammad

Commissioner Rozanne Ronen

Commissioner Nabi Fakroddin